

STATE OF NEVADA
BOARD OF HEARING AID SPECIALISTS

MINUTES

NOVEMBER 15, 2003

1. Call to Order and Roll Call

It was noted that Chair Lloyd was unable to attend the meeting due to illness. Member Vaughn called the meeting to order at 10:11 P.M. Roll call showed the following individuals present:

Board Members:

Denise Buffa, Secretary/Treasurer
Tracy Sandborn, Member
Rick Vaughn, Member

Board Member Absent:

Susan Lloyd, Chair – excused due to illness

Staff:

Christina Harper, Board Administrator
George Campbell, Deputy Attorney General
Al Kenneson, Board Accountant

Public:

There was no public present.

Member Vaughn determined that a quorum was present.

2. Approval of Minutes

- A. July 26, 2003 Regular Board Meeting Minutes
- B. September 4, 2003 Teleconference Meeting Minutes

Member Sandborn moved to accept the July 26, 2003 regular Board meeting minutes as presented, seconded by Member Vaughn. The motion passed unanimously.

Member Sandborn moved to accept the September 4, 2003 teleconference minutes as presented, seconded by Member Buffa. The motion passed unanimously.

3. Review and Adopt Amendments to Policy Procedure Manual

Mrs. Harper stated that there were no changes or amendments to the Policy Manual.

4. Review and Discuss Draft Form of Code of Ethics Examination

Members Vaughn and Sandborn reviewed the current Code of Ethics Exam, the current Code of Ethics, and 637A Statutes/Regulations and determined that the current examination is sufficient and no amendments are needed at this time.

Members Vaughn and Sandborn did express concern that NAC 637A.220 (4), should be amended to include the wording, "if available", when referring to listing the hearing aid serial number on the contract, and the medical waiver needs to be separate from the signed contract.

Mrs. Harper informed the Board of problems that have arisen in which the Specialists are indicating that they were unaware of the changes to NAC 637A.220. Following a discussion, the Board directed Mrs. Harper to send a letter to all Hearing Aid Specialists notifying that there are certain regulations that are not being complied with, a special note to NAC 637A.220 (4), the amount that can be charged for a fitting fee, and the medical waiver must be separate from the contract. The Board also directed Mrs. Harper to require as part of the 2004-2005 licensure renewal packet, a blank contract from each Hearing Aid Specialist.

The Board requested a workshop on NAC 637A.220 to discuss possible amendments at the next meeting. Member Vaughn stated that he would bring some examples of different purchase agreements, bill of sales, and contracts to the next meeting for review and discussion.

5. Report of Board Chair

A. Schedule Next Board Meeting

The next Board meeting was scheduled for February 28, 2004 at 10:00 A.M. in Las Vegas.

B. Schedule Next License Examination

The next licensure examination was scheduled for January 10, 2004 at 9:00 A.M. at the Miracle Ear Office in Las Vegas.

6. Report of Secretary/Treasurer

A. Financial Report

B. Approval of the Audit Report Ending June 30, 2003

Mrs. Harper reminded the Board that the Legislature now allows the option for small Boards, with revenue under \$50,000, to file a Balance Sheet instead of a full audit. Mrs. Harper stated that Mr. Kenneson has prepared the Balance Sheet for fiscal year 2003 (fiscal information through June 30, 2003) and a Board Member needs to sign the Balance Sheet. This document must be filed before or on December 1, 2003.

Al Kenneson reviewed the financial report dated October 31, 2003. Mr. Kenneson brought to the Board's attention the Accounts Payable issue regarding the Agreement

with Kathy Miller and the fine paid. There is a question if her payment to the Board was a "fine" or not. Mr. Campbell stated that in the "Agreement" the payment was designated as a "fine" then the fine must be paid to the State. Mrs. Harper will provide a copy of the "Agreement" to Mr. Campbell for review and determination if the payment was designated as a "fine".

Mr. Kenneson advised the Board that when income receipts exceed \$25,000 the Board might have to file a non-profit tax return with the IRS. Following a discussion, Mr. Kenneson will check with the IRS to determine if a non-profit, state agency exceeding \$25,000 in income must file with the IRS. Mr. Kenneson will report back to the Board on this issue.

Mr. Campbell reminded the Board that they should ensure that their insurance policies are paid and up to date, to include worker's compensation, general liability, fidelity insurance, and personal property insurance. Mr. Campbell suggested that an update on the Board's insurance policies be a standing agenda item for the Board Administrator to provide quarterly reports. It was also discussed to include information on insurance policies in the policy manual.

Mr. Kenneson stated that all of the fiscal information is in Quick Books and he can provide additional detailed information if any Board Member wishes.

7. 10:30 A.M. Public Hearing Continued from July 26, 2003 meeting

Public Hearing to Consider Amendments to NAC 637A.405, 637A.407, 637A.410, 637A.415, 637A.420, 637A.425 and New Sections to 637A – Section 7 and 8. Disciplinary Complaints; Filing of Informal Complaints; Default, Response, Review, Investigation; Notice of Hearing; Consolidation; Order of Presentation in Proceedings, Procedural and Pre-hearing Matters; Appearances, Required Attendance; Default for Failure to Appear; Discover of Witnesses and Evidence; Pre-hearing Conference; Motions; Final Order or Decision; and Grounds for Disciplinary Action

Member Vaughn opened the public hearing for comments at 11:03 A.M. There was one individual present, no public comments, and no written comments. It was noted that this public hearing was continued from the July 26, 2003 Board meeting, as the Board was waiting for the legal language from Legislative Counsel Bureau. Mr. Campbell stated that the proposed amendments are an attempt to standardize the complaint and investigative process. Member Vaughn closed the public hearing at 11:16 A.M.

Member Sandborn moved to adopt the amendments for NAC 637A.405, 637A.407, 637A.410, 637A.415, 637A.420, 637A.425 and New Sections to 637A – Section 7 and 8, seconded by Member Vaughn. The motion passed unanimously.

Mrs. Harper advised that when the date stamped file copy is received from the Secretary of State's office, the adopted regulations be sent to all licensed Hearing Aid Specialists advising them of the changes. Member Sandborn questioned if the signed

release from the Specialist is necessary to ensure that they received and read the new adopted regulations. Mrs. Harper stated that this could be done.

It was discussed and agreed to that a letter or memorandum be sent to all Specialists noting the important changes that were adopted and the web site where they could access the new procedural changes to the regulations. A Specialist can always request the new regulations in hard copy.

8. Report of Board Administrator

A. Application Profiles

The Board reviewed licensure applications for Robert Lindstrom, Dana Culligan, and John Alba.

Following a review of Robert Lindstrom's application file, Member Vaughn moved approval of Robert Lindstrom as a hearing aid apprentice, seconded by Member Sandborn. The motion passed unanimously.

Following a review of Dana Culligan's application file, Member Vaughn moved approval for Dana Culligan to sit for the next licensure examination pending receipt of personal reference and two previous employer reference letters, seconded by Member Sandborn. The motion passed unanimously.

Following a review of John Alba's application file, Member Sandborn moved approval for John Alba to sit for the next licensure examination pending receipt of his BCHIS certificate, seconded by Member Vaughn. The motion passed unanimously.

B. Licensee Examination Results from September 2003

Mrs. Harper reported that the following individuals, Thomas Atherton, Janina Chambers, and Richard Panelli, passed the licensure examination held in September, and all have been notified and issued licenses.

C. Review of Quarterly Reports for Apprentices

Mrs. Harper reported that the following Hearing Aid Specialists provided quarterly reports for apprentices: Kathleen Vander Wall for Richard Panelli; Walter Otto for John Alba; and Kevin Shea for Elizabeth Lynner.

D. Investigator Update

Mrs. Harper informed that complaints the Board previously determined needed further investigation have been assigned to hearing aid specialist investigators who have indicated a willingness to help the Board with investigations. Mrs. Harper stated that one investigator returned the information with a letter stating that the allegations of violations are so major that the files need to be

professionally investigated, all of these complaints involved the same Specialist. Mrs. Harper indicated that she has not received any information from the other investigators to date.

The Board discussed the option of hiring a professional investigation for Specialists who constantly violate hearing aid laws and regulations.

Member Vaughn moved to hire a professional investigator to help the Hearing Aid Specialist investigator to investigate the Specialist who has numerous complaints, seconded by Member Sandborn. The motion passed unanimously.

E. Complaints

Member Sandborn requested an update at each board meeting of when the complaint was received by the Board, status of the complaint, and investigator assignment.

Member Sandborn suggested a workshop to discuss how the Board should evaluate complaints at the next meeting.

#03-09-053 – Following a discussion, Member Sandborn moved to dismiss the complaint, seconded by Member Vaughn. The motion passed unanimously.

The Board discussed that the 30-day return period expired on August 13, 2003. The Specialist tried numerous times to repair the aids and satisfy the Consumer. The Board directed the Hearing Aid Specialist to return the hearing aids to the Consumer.

#03-09-054 – The Consumer sent a letter placing this complaint on hold, while the Hearing Aid Specialist tries to satisfy the Consumer.

#03-09-055 – Following a discussion, Member Vaughn moved to dismiss the complaint, seconded by Member Sandborn. The motion passed unanimously.

The Board discussed that the 30-day trial period had passed and the Consumer only presented himself twice to the Specialist for the aids to be checked and never did see a doctor as recommended to get his ears checked.

#03-09-056 – Following a review and discussion, Member Sandborn requested verification of the refund from the Hearing Aid Specialist and continue discussion at the next meeting. There is also a question whether the Consumer was sold and paid for digital hearing aids and received analog hearing aids. Following further discussion, the Board further agreed to have this complaint professionally investigated for fraud, as this Specialist continually violates the law and has numerous complaints.

Member Vaughn stated that there is misleading advertising of digital and digitally programmable hearing aids. Mr. Campbell suggested that the Board may want to discuss the possibility of amending the advertising regulations.

#03-09-057 – Following a discussion, Member Sandborn moved to dismiss the complaint pending notification from the Consumer receipt of the \$100 additional refund, seconded by Member Vaughn. The motion passed unanimously.

The Specialist refunded the cost of the aids minus the casting fee to the Consumer. The Specialist kept 20% for a casting fee for a total of \$400; the regulations indicated that the Specialist can keep \$150 per aid or 20% whichever is less. The Board agreed that the Consumer should receive an additional \$100 refund. Mrs. Harper stated that she has notified the Specialist of the change in regulations and the Specialist will be refunding the additional \$100.

#03-09-058 – Following a discussion, Member Sandborn moved to dismiss the complaint, seconded by Member Vaughn. The motion passed unanimously.

The Board discussed that the 30-day trial period had passed and the Consumer has continued to keep appointments with the Specialist to have the hearing aids remade and adjusted. The Specialist continues to work with the Consumer to alleviate the problems.

#03-10-059 – Following a discussion, Member Vaughn moved that the Specialist provide a refund to the Consumer, minus the casting fee of \$150 per hearing aid or 20% whichever is less, seconded by Member Sandborn. The motion passed unanimously.

The Board discussed that the Consumer is entitled to a refund minus the casting fee, as the refund was requested on August 5, 2003.

9. Report of the Attorney General

Mr. Campbell had no additional comments.

10. Public Comment

Member Buffa stated that she has submitted a letter of resignation from the Board to Chair Lloyd. Member Buffa cited conflict with her work schedule and Board meetings. Mrs. Harper will forward the letter of resignation to Chair Lloyd and the Governor's Office.

There were no public comments.

11. Adjournment of Meeting

Member Vaughn moved to adjourn the meeting at 12:09 P.M., seconded by Member Sandborn. The motion passed unanimously.